



DAC
PATENT
574313-2335.1
USSN 09/586535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe Francis AUDONNET et al.
U.S. Serial No. : 09/586,535
Filing Date : May 31, 2000
Art Unit :
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

INTRODUCTION AND RELIEF REQUESTED

Pursuant to 37 CFR 1.137(a), 1.181-183, and any other Rules, it is respectfully requested that the Declaration and Power of Attorney submitted herewith be accepted, that this application and patent be revived, with the effect that the Declaration and Power of Attorney filed herewith be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve the relief herein requested.

The fees set forth in 37 CFR 1.17(m) and 1.17(h) (\$1330+\$130=\$1460) are submitted herewith by authorization to charge a credit card therefor, and the Commissioner is hereby authorized to charge any deficiency in fees or credit any overpayment in fees to Deposit Account No. 50-0320.

FACTS & ARGUMENT

The Declaration and Power of Attorney originally filed in this application may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized to sign on behalf of inventor(s), without deceptive intent on the part of the inventors, the assignee, the US attorneys, the foreign firm involved, and individuals thereof.

More in particular, a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding

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the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

With respect to the period of time of 1998 to the present: Individual "HC" was and is in the employ of a C as a clerk.

With respect to the period of time of 1998 to the present: Until her retirement on December 31, 2000, "CD" was in the employ of C as a foreign section assistant supervisor; a superior to HC.

With respect to the period of time of 1998 to the present: Until her retirement on December 31, 1999, "D" was Head of the Administrative Patent Department of C, and at the time a member of the Comité de Direction (Board) of C. D was permitted to run the Patent Department relatively autonomously within C.

On January 1, 2000, "E" became Head of the Administrative Patent Department, and she still holds that position today.

On January 1, 2001, "CP" replaced CD as a supervisor, whom E supervises, and who supervises HC.

Individual "X" was CEO of firm C at the time the events occurred, and is currently a member of the Comité de Direction (Board) of C.

Individual "Y" is currently the CEO of firm C and authorized to speak on its behalf.

Day-to-day management decisions of C are made by the CEO, the Board makes the significant decisions of the business of C.

As Head of the Administrative Patent Department, on behalf of C, D was, and E is, responsible for organizing and implementing formalities in patent applications; for instance, transmitting formal papers to be executed, receiving executed formal papers, and transmitting executed formal papers to patent law firms outside of France for filing with Patent Offices outside of France and the European Patent Office.

Accordingly, on behalf of C, with C acting as an agent for a client, D instructed and E instructs patent law firms outside of France to do certain acts, such as file patent applications and file executed formal papers for patent applications.

Those who worked under D, and those who work under E, CD, CP and HC, were likewise in charge of formalities.

D and E had authority by the Board to sign certain types of letters on behalf of C, and they could delegate others to sign for them, excluding staff such as clerks, e.g. HC.

Thus, D was in a position at C in which she spoke on behalf of C in certain matters, and E is in a position at C in which she speaks on behalf of C in certain matters.

On or about January 21, 2004, January 23, 2004 and February 11, 2004 certain inventors had affirmatively reported to a US law firm (the undersigned) that signatures on certain formal papers transmitted by C to that firm for filing (and as a result filed by that firm with the USPTO in certain patent applications) were not their signatures.

On or about February 17, 2004, promptly after the reports by the inventors to the US law firm, the US law firm (the undersigned) inquired of C as to the chain of custody of formal papers.

C promptly investigated.

As part of the investigation, CD, HC, D, E, CP, and X were interviewed by C.

HC admitted to imitating inventor signatures on documents on express instructions of her supervisor CD, starting from 1998 until CD's retirement on December 31, 2000.

HC assured C that she never did or was requested to do that after December 31, 2000. That is, during the tenure of CP as HC's superior, HC did not, and was not requested, to copy inventor signatures.

CD also admitted instructing HC to imitate inventor signatures on documents, as well as herself imitating inventor signatures on documents.

CP stated that she had not copied inventor signatures on documents, and had not instructed anyone else to do so.

More in particular, CP stated that during her tenure as a supervisor, she has not imitated inventor signatures; HC has not been instructed by me to imitate inventor signatures to documents; and, to the best of her knowledge, HC has not done so during my tenure as supervisor.

Furthermore, CP stated that during her tenure at C and prior to being advised of the admissions by HC and CD, she had no knowledge that HC and CD previously imitated inventor signatures on documents. And, CP stated that during her tenure as a supervisor, after learning of the admissions by HC and CD, HC has been instructed to not imitate inventor signatures. Furthermore, with respect to the aforementioned investigation, I too was questioned by C.

Indeed, when interviewed by C, CP confirmed, and in an accompanying Declaration also confirms, that she has not copied inventor signatures on documents, and did not instruct and has not instructed HC to copy inventor signatures on documents.

Accordingly to the best of CP's knowledge and belief, since she assumed the position of supervisor under E, formerly held by CD, there has been no imitating of signatures at C by HC, and there certainly has been no imitating of signatures by CP at C since she began her employment at C.

Thus, from January 1, 2001 to the present, to the best of CP's knowledge and belief, there has been no imitating of signatures at C.

Neither HC nor CD was authorized by any of the inventors to affix inventor signatures to documents.

Neither HC nor CD was authorized by anyone at C to affix inventor signatures to documents.

Neither HC nor CD was authorized by the assignee(s) to affix inventor signatures to documents

None of the individuals D, E, X, and Y, at the time HC and CD affixed unauthorized inventor signatures to documents, and at the time CD instructed HC to so do, were aware of CD's instructions and CD's actions and HC's actions; and therefore, none of D, E, X, Y, and firm C, authorized such CD's instructions and CD's actions and HC's actions.

D, E, X and Y, and firm C acted without deceptive intent.

According to HC and CD, generally, there were two instances when formal documents had inventor signatures affixed to them: When the individuals were located in distant geographic regions; and, when there had been a mistake on the document signed previously by the individuals.

HC had not been instructed that original inventor signatures were indeed required for the US and certain countries, and in some countries C is authorized to sign documents on behalf of the Applicant. When she affixed inventor signatures to documents, she did not intend to deceive anyone. It is respectfully submitted that HC acted without deceptive intent.

CD did not appreciate the gravity of imitating inventor signatures and regrets having done so and having instructed HC to do so.

The investigation by C also involved C reviewing all of the files for the client for the period of 1995 to the present, which is the entire period during which C filed patents for the client. More in particular, E, on behalf of C, reviewed all of the files from a period of 1995 to the present for the client for each country that the law of which required that the inventor himself sign documents. E did not review those files upon which CP worked, in view of the comments by CP and HC during their interviews that CP was not involved.

From this investigation:

- C learned that certain files contained what appeared to be original signed formal papers, received in C's office after what appeared to be a copy of signed documents had been transmitted to the US patent law firm.
- C also learned that in certain files an initial or second execution of a formal paper was requested by the US patent law firm, and that in these and certain additional files the turnaround of the formal papers seemed unusually fast, given the number and/or location of the inventors.
- C further learned that in certain files the inventors were located in distant geographic regions, and it appeared that certain employees of C felt pressure to meet deadlines for formal papers.
- C additionally learned that in certain files the original inventor-executed formal papers that were received by C were mislaid, and formal papers that had inventor signatures affixed to them by employees of C, without the authorization of C, without the authorization of the assignee(s) and without the authorization of the inventor(s), were sent to the foreign associate or were sent to the US patent firm.
- C yet further learned that in one Indonesian case, there may be a doubt as to whether the formal papers were actually signed by the inventors.
- C even further learned that in one Taiwanese case, there had been a mistake on the document signed previously by the individuals, and it appears that papers that had inventor signatures affixed to them by employees of C, without the authorization of C, without the authorization of the assignee(s) and without the authorization of the inventor(s), were sent to the foreign associate.

And C identified these files as the files that may have had formal papers filed at the applicable Patent Office that may have had inventor signature(s) affixed to them that were not the signature(s) of the inventor(s).

It submit that C diligently undertook a good faith investigation to identify the files in which inventor signatures were affixed to documents by employees of C without the authorization of C, without the authorization of inventor(s) and without the authorization of assignee(s), and that C acted without deceptive intent.

Declarations from HC, CD, CP, D, E, X and Y in support of this Petition are submitted herewith as Exhibits 1, 2, 3, 4, 5, 6 and 7.

The inventors were unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, acted without deceptive intent.

The inventors were supplied with a copy of the prosecution to date, and a new Declaration and Power of Attorney, as well as a Declaration in support of this Petition.

The inventors' Declaration and new Declaration and Power of Attorney are submitted as Exhibit 8 and 9.

The Assignee ("A") was unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, acted without deceptive intent.

A, through its in house patent counsel, with the assistance of outside patent counsel, investigated what had occurred, and stated that A and its in house patent counsel were unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, A and its in house patent counsel believed that C had transmitted to the A's US patent law firm a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it.

Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, A and its US patent firm and A's in house patent counsel had trusted C as to the signatures on such documents and believed that those documents had actual signatures; A, its in house patent counsel and A's attorneys had no reason to doubt or not trust C.

Thus, A and its in house patent counsel acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents A's US patent law firm received from C for filing with the USPTO.

Furthermore, A and its in house patent counsel also have taken steps to prevent this situation from arising in the future, including dismissing C as a representative of the A as to patent matters.

A Declaration on behalf of A is submitted herewith as Exhibit 10.

The attorneys that filed the original Declaration and Power of Attorney were unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, acted without deceptive intent.

The attorneys were unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, the attorneys believed that C had transmitted to them a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it.

Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, the attorneys had trusted C as to the signatures on such documents and believed that those documents had actual signatures; the attorneys had no reason to doubt or not trust C.

Thus, the attorneys acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents received from C for filing with the USPTO.

A Declaration on behalf of the attorneys that filed the original Declaration and Power of Attorney is submitted herewith as Exhibit 11.

In addition to the foregoing, the undersigned adds that in March 2004, he became aware that in certain applications of A, a clerk may have affixed unauthorized inventor signatures to documents, and promptly (within days) contacted the USPTO, inquiring how to remedy the situation. It was suggested that a Petition, such as this document, with supporting Declarations, such as the Declarations that accompany this paper, be filed, as the application may be considered abandoned for failing to timely file a correct Declaration and Power of Attorney.

The undersigned then undertook investigating the number of applications having the signature issue, including, *inter alia*, personally interviewing the declarants of Exhibits 1 to 7 and personally obtaining the executed Declarations in support of this Petition, preparing the inventor, assignee and attorney declarations, coordinating providing the inventors with a copy of the prosecution history and new declaration and power of attorney, and preparing this Petition.

Accordingly, it is respectfully asserted that the undersigned and the inventors and the assignee acted diligently and promptly, especially as numerous US applications were uncovered in the investigation, each of the US applications had a plurality of inventors, and the declarants of Exhibits 1 to 7 are located in France, and meeting with them to investigate the situation and prepare their Declarations required coordinating many schedules, and addressing certain issues of French law.

Therefore, D, E, X, Y, firm C, the inventors, A, A's in house patent counsel, and the US patent attorneys involved, including the undersigned and his firm, acted without deceptive intent, and this paper with supporting Declarations and a correct Declaration and Power of Attorney is being filed promptly.

Furthermore, the abandonment of the application was unintentional, and this paper with the supporting Declarations has been prepared and filed without intentional delay.

Even further still, any delay caused by the abandonment of this application was unintentional.

CONCLUSION

It is equitable to **not** hold the actions of HC and CD against the inventors and A; the interests of justice call for granting the relief herein requested.

Accordingly, pursuant to 37 CFR 1.137(a), 1.181-183, and any other Rules, it is respectfully requested that the Declaration and Power of Attorney submitted herewith be accepted, that this application and patent be revived, with the effect that the Declaration and Power of Attorney filed herewith be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve the relief herein requested.

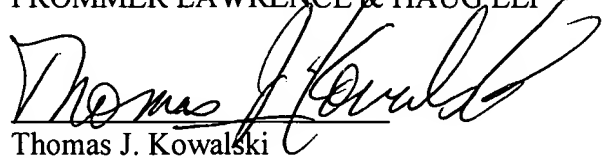
Also, the undersigned thanks the USPTO for the many courtesies extended in suggesting how to address the present situation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Thomas J. Kowalski

Reg. No. 32,147

Tel 212-588-0800

Fax 212-588-0500



PATENT
574313-2335.1
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe Francis AUDONNET et al.
U.S. Serial No. : 09/586,535
Filing Date : May 31, 2000
Patent No. :
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Examiner :
Art Unit :
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

**ATTORNEY'S DECLARATION IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Thomas J. Kowalski, declare and state that:

1. I am an attorney of record in the above-captioned patent application ("the present application"), and a partner in the firm of Frommer Lawrence & Haug LLP, authorized to speak on behalf of the firm and myself.

2. My firm and I are advised and therefore believe that the Declaration and Power of Attorney originally filed in this application may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by any of us to sign on behalf of inventor(s).

3. More in particular, my firm and I are advised and therefore believe that:

(a) French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

(b) Individual "HC" is in the employ of C as a clerk.

(c) Individual "CD" was in the employ of C as a foreign section assistant supervisor; a superior to HC.

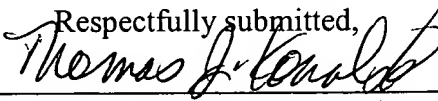
(d) Individual CD instructed individual HC to affix signatures of inventors to documents. HC did as instructed by CD. CD also affixed signatures of inventors to documents. No inventor authorized CD or HC to affix a signature to a document or CD to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded by C to US patent law firms for filing in the USPTO, and were filed in the USPTO.

4. My firm and I were unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, my firm and I acted without deceptive intent as to those instructions and actions. In particular, my firm and I were unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, my firm and I believed that C had transmitted to us a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it. Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, my firm and I had trusted C as to the signatures on such documents and believed that those documents had actual signatures. Thus, my firm and I acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents received from C for filing with the USPTO.

5. This Declaration is in support of a Petition that a new Declaration and Power of Attorney submitted with the Petition be accepted, that this application and any patent from this application be revived, with the effect that the Declaration and Power of Attorney filed with the Petition be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve that relief.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,


(date)

Print Name: Thomas J. Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe Francis AUDONNET et al.
U.S. Serial No. : 09/586,535
Filing Date : May 31, 2000
Patent No. :
Issued :
Examiner :
Art Unit :
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

**ASSIGNEE'S DECLARATION IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Judy Jarecki-Black, Ph.D, J.D., declare and state that:

1. I am a registered patent attorney, Reg. No. 44,170. My position is that I am Head, Global Intellectual Property, Merial Ltd., 3239 Satellite Blvd., Duluth, Georgia 30096-4640 USA. I have held this position since July 2002. Merial Ltd. is the ultimate parent company of all Merial companies. In my position in Merial Ltd., I am authorized to speak on behalf of Merial Ltd. and all Merial companies as to patent matters, and am thus qualified to speak on behalf of the assignee in the above-captioned patent application ("the present application"). Accordingly, in this Declaration, I am speaking on behalf of Merial Ltd. and the assignee of record (if it is a Merial company other than Merial Ltd.; individually and collectively "Assignee"), as well as myself.

2. The Assignee and I are advised and therefore believe that the Declaration and Power of Attorney originally filed in this application may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by the Assignee and I to sign on behalf of inventor(s).

3. More in particular, the Assignee and I are advised and therefore believe that:

(a) French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to the Assignee's patent law firms outside of France for filing with the respective Patent Offices.

(b) Individual "HC" is in the employ of C as a clerk.

(c) Individual "CD" was in the employ of C as a foreign section assistant supervisor; a superior to HC.

(d) Individual CD instructed individual HC to affix signatures of inventors to documents. HC did as instructed by CD. CD also affixed signatures of inventors to documents. No inventor authorized CD or HC to affix a signature to a document or CD to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded by C to the Assignee's US patent law firms for filing in the USPTO, and were filed in the USPTO.

4. The Assignee and I were unaware of CD's instructions and CD's actions and HC's actions; did not authorize those instructions or actions; and hence, the Assignee and I acted without deceptive intent as to those instructions and actions. In particular, in my position, upon being advised of the foregoing information in paragraph 3, *supra*, I, with the assistance of outside patent counsel, investigated what had occurred, and hereby state that the Assignee and I were unaware, at the time of filing the original Declaration and Power of Attorney in the present application, that it may not have actually had signatures of inventor(s) affixed to it; and, at the time of filing the original Declaration and Power of Attorney in the present application, the Assignee and I believed that C had transmitted to the Assignee's US patent law firm a Declaration and Power of Attorney that had actual signatures of inventor(s) affixed to it. Indeed, at the time of filing the original Declaration and Power of Attorney in the present application and any other signed documents from C, the Assignee and its US patent firm and I had trusted C as to the signatures on such documents and believed that those documents had actual signatures; the Assignee, the Assignee's US patent firm, and I had no reason to doubt or not trust C. Thus, the Assignee and I acted in good faith and without deceptive intent with respect to the filing with the USPTO of the original Declaration and Power of Attorney, and any other signed documents the Assignee's US patent law firm received from C for filing with the USPTO. Furthermore, the

Assignee and I also have taken steps to prevent this situation from arising in the future, including dismissing C as a representative of the Assignee as to patent matters.

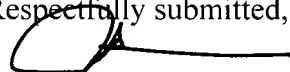
5. This Declaration is in support of a Petition that a new Declaration and Power of Attorney submitted with the Petition be accepted, that this application and any patent from this application be revived, with the effect that the Declaration and Power of Attorney filed with the Petition be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve that relief.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

09 JUN 04

(date)



Print Name: Judy Jarecki-Black, Reg. No. 44,170



PATENT
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For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

PETITION TO SUBSTITUTE ASSIGNMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Pursuant to any of the Rules, it is respectfully requested that the assignment recorded at Reel _____ and Frame _____ be substituted with the assignment herewith.

It has recently been learned that the assignment originally recorded in this application at Reel _____ and Frame _____ may have had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized to sign on behalf of inventor(s), without deceptive intent on the part of the inventors, the assignee, the US attorneys, the foreign firm involved, and individuals thereof.

Thus, the undersigned and his firm and any other attorneys who may have filed the originally recorded assignment wish or are believed to wish to withdraw any certification as to that originally recorded assignment, and have the herewith assignment, indeed believed to have been executed by the inventors, substituted for the assignment recorded at Reel _____ and Frame _____. A new recordation form cover sheet is also enclosed.

Any fees for the herewith request or for recordal of the herewith assignment may be charged or any overpayment credited to Deposit Account No. 50-0320.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

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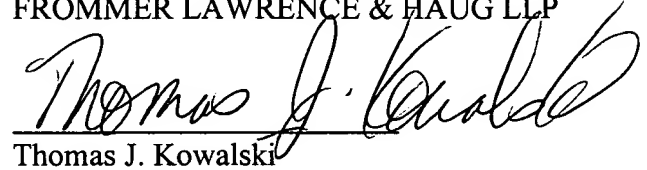
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Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Thomas J. Kowalski

Reg. No. 32,147

Tel 212-588-0800

Fax 212-588-0500



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U.S. Serial No. : 09/586,535
Filing Date : May 31, 2000
Examiner : Q. J. Li
Art Unit : 1632
For : **DNA VACCINE-PCV**

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**INVENTOR DECLARATION IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

We, _____

declare and state that:

1. We are the named inventors on the above-captioned patent application ("the present application").
2. We are advised and therefore believe that the Declaration and Power of Attorney originally filed in this application had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by any of us to sign on behalf of inventor(s).
3. More in particular, we are advised and therefore believe that:
 - (a) A French patent firm ("L") was responsible for transmitting the Declaration and Power of Attorney to inventors, obtaining signatures thereon, and forwarding the executed Declaration and Power of Attorney to a US patent law firm for filing with the USPTO.
 - (b) Individual "HC" is in the employ of a French patent firm ("L") as a clerk.
 - (c) Individual "CD" was in the employ of L as a foreign section assistant supervisor; a superior to HC.

(d) Individual CD instructed individual HC to affix signatures to documents of inventors. HC did as instructed by CD. No inventor authorized CD to affix a signature to a document or HC to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded to US patent law firms for filing in the USPTO and were filed in the USPTO, such as the Declaration and Power of Attorney in the instant case.

4. We were unaware of HC's instructions and CD's actions; did not authorize those instructions or actions; and hence, we acted without deceptive intent as to those instructions and actions.

5. We were supplied with a copy of the prosecution of the present application to date, which we have reviewed, and a new Declaration and Power of Attorney, which we have indeed executed. This Declaration is in support of a Petition that the new Declaration and Power of Attorney submitted with the Petition be accepted, that this application and any patent from this application be revived, with the effect that the Declaration and Power of Attorney filed with the Petition be accepted *nunc pro tunc* (accepted now as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution), and that any necessary Rules be waived to achieve that relief.

6. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

07/06/04

(date)



Print Name:

(date)

Print Name:

(date)

Print Name:

(date)

Print Name:

(date)

Print Name:

(date)

Print Name:



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe Francis AUDONNET et al.
U.S. Serial No. : 09/586,535
Filing Date : May 31, 2000
Examiner : Q. J. Li
Art Unit : 1632
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**INVENTOR DECLARATION IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

We, _____

declare and state that:

1. We are the named inventors on the above-captioned patent application ("the present application").
2. We are advised and therefore believe that the Declaration and Power of Attorney originally filed in this application had "inventor" signature(s) affixed to it by a person who was not an inventor, and who was not authorized by any of us to sign on behalf of inventor(s).
3. More in particular, we are advised and therefore believe that:
 - (a) A French patent firm ("L") was responsible for transmitting the Declaration and Power of Attorney to inventors, obtaining signatures thereon, and forwarding the executed Declaration and Power of Attorney to a US patent law firm for filing with the USPTO.
 - (b) Individual "HC" is in the employ of a French patent firm ("L") as a clerk.
 - (c) Individual "CD" was in the employ of L as a foreign section assistant supervisor; a superior to HC.

(d) Individual CD instructed individual HC to affix signatures to documents of inventors. HC did as instructed by CD. No inventor authorized CD to affix a signature to a document or HC to instruct another to affix an inventor signature to a document. Documents having such signatures were forwarded to US patent law firms for filing in the USPTO and were filed in the USPTO, such as the Declaration and Power of Attorney in the instant case.

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July 15, 2004
(date)

(date)

(date)

Respectfully submitted,

BUBLOT Michel

Print Name:

Print Name:

Print Name:

(date)

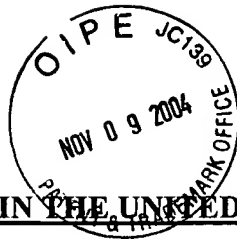
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(date)

DISAPAY
(date)

(date)

Print Name:

JENNIFER M PEREZ
Print Name: JENNIFER M PEREZ

Print Name:

(date)

Print Name:

(date)

Print Name:

(date)

Print Name:



PATENT
574313-2335.1
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8/9/04
(date)

(date)

(date)

Respectfully submitted,

C. Chavre
Print Name: C. CHAVREYRE

Print Name:

Print Name:

(date)

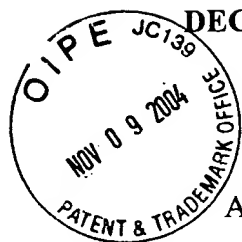
Print Name:

(date)

Print Name:

(date)

Print Name:



DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY
(Includes reference to PCT International Applications)

FROMMER LAWRENCE & HAUG, LLP
File No.: 574313-2335.1

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor (if plural, names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

DNA VACCINE-PCV

the specification of which:

- is attached hereto
- ☒ was filed with/transmitted to USPTO on May 31, 2000 as:
- ☒ United States Application Serial No 09/586,535
- as the National Phase or Continuation or Continuation-in-Part of PCT
- Application No. _____, filed _____,
- designating the U.S., and published as _____ on _____,
- ☒ with amendments made on October 16, 2000, December 12, 2000, October 17, 2001, January 8, 2002, September 10, 2002 and June 12, 2003 (if applicable, give details).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

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Prior Foreign/PCT Application(s) [list additional applications on separate page]:

Country (or PCT)	Application Number:	Filed (Day/Month/Year)	Priority Claimed:	
			Yes	No

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

60/138,352
(Application Number)

June 10, 1999
(Filing Date)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or § 365 (c) of any PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. (or U.S.-designating PCT) Application(s) [list additional applications on separate page]:
U.S. Serial No.: Filed (Day/Month/Year) PCT Application No. Status (patented, pending, abandoned)

I hereby appoint Thomas J. Kowalski, Registration No. 32,147, Mark W. Russell, Registration No. 37,514, FROMMER LAWRENCE & HAUG, LLP and Judy Jarecki-Black, Registration No. 44,170, or their duly appointed associates, my attorneys or agents, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and to insert the Serial Number of the application in the space provided above, and specify that all communications about the application are to be directed to the following correspondence address:

Thomas J. Kowalski, Esq.
c/o FROMMER LAWRENCE &
HAUG LLP
745 Fifth Avenue
New York, NY 10151


Direct all telephone calls to: (212) 588-0800
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patent issued thereon.

INVENTOR(S):

Signature:  Date: 07/06/04

Full name of first inventor: Francis Jean-Christophe AUDONNET
Residence: 119, rue de Crequi, 69006 Lyon, France
Citizenship: French

Signature: _____ Date: _____

Full name of second inventor: Michel BUBLLOT
Residence: 126 Dumbarton Drive, Delmar, New York 12054
Citizenship: French

Signature: _____ Date: _____

Full name of third inventor: Jennifer Maria PEREZ
Residence: 27 Smith Hill Road, East Nassau, New York 12062
Citizenship: U.S.

Signature: _____ Date: _____

Full name of fourth inventor: Catherine Elisabeth CHARREYRE
Residence: 42 Rue Ferdinand Gauthier, 69720 Saint-Laurent De Mure, France
Citizenship: French

Post Office Address(es) of inventors [if different from residence]:

NOTE: In order to qualify for reduced fees available to Small Entities, each inventor and any other individual or entity having rights to the invention must also sign an appropriate separate "Verified Statement (Declaration) Claiming [or Supporting a Claim by Another for] Small Entity Status" form [e.g. for Independent Inventor, Small Business Concern, Nonprofit Organization, Individual Non-Inventor].



DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY
(Includes reference to PCT International Applications)

FROMMER LAWRENCE & HAUG, LLP
File No.: 574313-2335.1

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor (if plural, names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

DNA VACCINE-PCV

the specification of which:

- ☐ is attached hereto
- ☒ was filed with/transmitted to USPTO on May 31, 2000 as:
- ☒ United States Application Serial No 09/586,535
- ☐ as the National Phase or Continuation or Continuation-in-Part of PCT Application No. _____, filed _____, designating the U.S., and published as _____ on _____,
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Prior Foreign/PCT Application(s) [list additional applications on separate page]:

Country (or PCT)

Application Number:

Filed (Day/Month/Year)

Priority Claimed:

Yes No

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

60/138,352 June 10, 1999
(Application Number) (Filing Date)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or § 365 (c) of any PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. (or U.S.-designating PCT) Application(s) [list additional applications on separate page]:
U.S. Serial No.: Filed (Day/Month/Year) PCT Application No. Status (patented, pending, abandoned)

I hereby appoint Thomas J. Kowalski, Registration No. 32,147, Mark W. Russell, Registration No. 37,514, FROMMER LAWRENCE & HAUG, LLP and Judy Jarecki-Black, Registration No. 44,170, or their duly appointed associates, my attorneys or agents, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and to insert the Serial Number of the application in the space provided above, and specify that all communications about the application are to be directed to the following correspondence address:

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INVENTOR(S):

Signature: _____ Date: _____

Full name of first inventor: Francis Jean-Christophe AUDONNET

Residence: 119, rue de Crequi, 69006 Lyon, France

Citizenship: French

Signature:  _____ Date: 15/07/04

Full name of second inventor: Michel BUBLOT

Residence: 126 Dumbarton Drive, Delmar, New York 12054

Citizenship: French

Signature: _____ Date: _____

Full name of third inventor: Jennifer Maria PEREZ

Residence: 27 Smith Hill Road, East Nassau, New York 12062

Citizenship: U.S.

Signature: _____ Date: _____

Full name of fourth inventor: Catherine Elisabeth CHARREYRE

Residence: 42 Rue Ferdinand Gauthier, 69720 Saint-Laurent De Mure, France

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DNA VACCINE-PCV

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<u>Country (or PCT)</u>	<u>Application Number:</u>	<u>Filed (Day/Month/Year)</u>	<u>Priority Claimed:</u>	
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(Application Number)

June 10, 1999
(Filing Date)

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Citizenship: French

Signature:  _____ Date: 05/04

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Residence: 27 Smith Hill Road, East Nassau, New York 12062

Citizenship: U.S.

Signature: _____ Date: _____

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Residence: 42 Rue Ferdinand Gauthier, 69720 Saint-Laurent De Mure, France

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Application Number:

Filed (Day/Month/Year)

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60/138,352 June 10, 1999
(Application Number) (Filing Date)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or § 365 (c) of any PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. (or U.S.-designating PCT) Application(s) [list additional applications on separate page]:
U.S. Serial No.: Filed (Day/Month/Year) PCT Application No. Status (patented, pending, abandoned)

I hereby appoint Thomas J. Kowalski, Registration No. 32,147, Mark W. Russell, Registration No. 37,514, FROMMER LAWRENCE & HAUG, LLP and Judy Jarecki-Black, Registration No. 44,170, or their duly appointed associates, my attorneys or agents, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and to insert the Serial Number of the application in the space provided above, and specify that all communications about the application are to be directed to the following correspondence address:

Thomas J. Kowalski, Esq.
c/o FROMMER LAWRENCE &
HAUG LLP
745 Fifth Avenue
New York, NY 10151

Direct all telephone calls to: (212) 588-0800
to the attention of:
Thomas J. Kowalski

FAX NO. (212) 588-0500

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any

patent issued thereon.

INVENTOR(S):

Signature: _____ Date: _____

Full name of first inventor: Francis Jean-Christophe AUDONNET

Residence: 119, rue de Crequi, 69006 Lyon, France

Citizenship: French

Signature: _____ Date: _____

Full name of second inventor: Michel BUBLLOT

Residence: 126 Dumbarton Drive, Delmar, New York 12054

Citizenship: French

Signature: _____ Date: _____

Full name of third inventor: Jennifer Maria PEREZ

Residence: 27 Smith Hill Road, East Nassau, New York 12062

Citizenship: U.S.

Signature:  _____ Date: 8/6/04

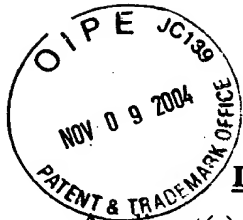
Full name of fourth inventor: Catherine Elisabeth CHARREYRE

Residence: 42 Rue Ferdinand Gauthier, 69720 Saint-Laurent De Mure, France

Citizenship: French

Post Office Address(es) of inventors [if different from residence]:

NOTE: In order to qualify for reduced fees available to Small Entities, each inventor and any other individual or entity having rights to the invention must also sign an appropriate separate "Verified Statement (Declaration) Claiming [or Supporting a Claim by Another for] Small Entity Status" form [e.g. for Independent Inventor, Small Business Concern, Nonprofit Organization, Individual Non-Inventor].



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Michel MONCHENY is the same as, and a true and correct translation of, the attached French language Declaration of said person.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



A handwritten signature in black ink, consisting of a stylized 'P' followed by a horizontal line and a small 'h'.

P. BONNEFOUS

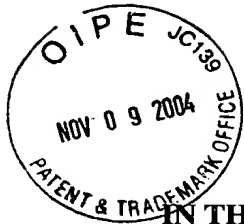
Signature of Declarant Witnessed by:

June 3, 2004

A handwritten signature in black ink, appearing to read "Thomas J. Kowalski" in a cursive script.

Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

DECLARATION OF
MICHEL MONCHENY IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Michel Moncheny, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I am a registered French patent and trademark agent ("CPI") and a European patent and trademark attorney. I was the President (Chief Executive Officer or CEO) of C from February 1996 to February 2002. I am currently a member of the Comité de Direction (Board) of C. Day-to-day management decisions of C are made by the CEO, the Board makes the significant decisions of the business of C.

3. With respect to the period of time of 1998 to the present: Until December 31, 1999, Denise Yannic ("D") was Head of the Administrative Patent Department, and at the time a member of the Board of C. During that time, until she retired on December 31, 2000, Colette Drouvroy ("CD") was a supervisor whom D supervised, and Helene Carré ("HC") was a clerk whom CD supervised. HC is still employed by C. On January 1, 2000, Elisabeth de Vanssay ("E") became Head of the Administrative Patent Department, and she still holds that position



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today. On January 1, 2001, Catherine Pottier ("CP") replaced CD as a supervisor, whom E supervises, and who supervises HC. As Head of the Administrative Patent Department, and a member of the Board of C, D was permitted to run the Patent Department relatively autonomously within C. As Head of the Administrative Patent Department, on behalf of C, D was, and E is, responsible for organizing and implementing formalities in patent applications; for instance, transmitting formal papers to be executed, receiving executed formal papers, and transmitting executed formal papers to ex-French patent law firms for filing with Patent Offices outside of France and the European Patent Office. Accordingly, on behalf of C, with C acting as an agent for a client, D instructed and E instructs ex-French patent law firms to do certain acts, such as file patent applications and file executed formal papers for patent applications. Those who worked under D, and those who work under E, CD, CP and HC, were likewise in charge of formalities. D and E had authority by the Board to sign certain types of letters on behalf of C, and they could delegate others to sign for them, excluding staff such as clerks, e.g. HC. Thus, D was in a position at C in which she spoke on behalf of C in certain matters, and E is in a position at C in which she speaks on behalf of C in certain matters.

4. In the course of an investigation by C, that I am advised arose from an inquiry from a US patent law firm as to the chain of custody of formal papers as to certain applications because certain inventors affirmatively reported that signatures on certain formal papers were not their signatures, I was advised that certain files of C were designated as the files that may have had formal papers filed at the Patent Office that may have had inventor signature(s) affixed to them that were not the signature(s) of the inventor(s). I was further advised: that HC and CD were also questioned by C; that HC admitted she had imitated inventor signatures on documents; and CD admitted she had instructed HC to imitate inventor signatures on documents, as well as that she had imitated inventor signatures. During my tenure as President, I did not instruct HC or CD or anyone at C to imitate inventor signatures on documents. I first learned of HC and CD had imitated inventor signatures on February 23, 2004. Accordingly I was not aware, during my tenure as President and prior to being advised by C that HC and CD admitted they had imitated inventor signatures on documents, that HC and CD had imitated inventor signatures on documents. Further, during my tenure as President, to the best of my knowledge, neither HC nor CD was authorized by any of the inventors to affix inventor signatures to documents. Likewise, during my tenure as President, to the best of my knowledge, neither HC nor CD was authorized



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by anyone at C to affix inventor signatures to documents. And, to the best of my knowledge during my tenure as President, neither HC nor CD was authorized by the assignee(s) to affix inventor signatures to documents.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001) and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

3 juin 2004

(date)

M. Moncheny

Signature of Declarant Witnessed by:

3 June 04

(date)

Print Name: Michel Moncheny

Thomas J. Kowalski

Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE

COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : PCV VACCIN AND

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

MICHEL MONCHENY A L'APPUI DE

LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

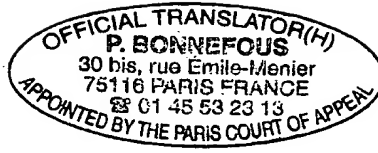
Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussigné, Michel Moncheny, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. Je suis un conseil en propriété industrielle français agréé (ci-après désigné 'CPI') et un conseil en propriété industrielle européen. J'étais Président de C de février 1996 à février 2002. Je suis actuellement membre du Comité de Direction de C. Les décisions de gestion quotidienne de C sont prises par le Président, le Comité de Direction prend les décisions de gestion importantes de C.

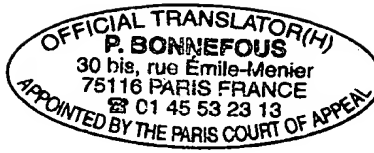
3. En ce qui concerne la période de 1998 à ce jour : jusqu'au 31 décembre 1999, Denise Yannic ("D") était la Chef du Service Administratif Brevets, et à cette époque elle était membre du Comité de Direction de C. Pendant cette période, jusqu'à son départ à la retraite le 31 décembre 2000, Colette Drouvroy ("CD") était adjointe sous la supervision de D et Hélène Carré



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(“HC”) était une employée de bureau que CD encadrait. HC est toujours salariée de C. Le 1^{er} janvier 2000, Elisabeth de Vanssay (“E”) est devenue Chef du Service Administratif Brevets, et elle occupe toujours ce poste à ce jour. Le 1^{er} janvier 2001, Catherine Pottier (“CP”) a remplacé CD en tant qu’adjointe, sous la supervision de E, et encadrant elle-même HC. En tant que Chef du Service Administratif Brevets et membre du Comité de Direction de C, D était autorisée à gérer le service Brevets de manière relativement autonome au sein de C. En tant que Chef du Service Administratif Brevets, pour le compte de C, D était, et E est, responsable de l’organisation et de la mise en place de formalités dans les demandes de brevets ; par exemple la transmission de documents officiels devant être signés, la réception de documents officiels signés et la transmission de documents officiels signés à des cabinets de brevets en dehors de la France et à l’Office Européen des Brevets. Par conséquent, pour le compte de C, avec C agissant en tant que mandataire d’un client, D a demandé, et E demande, à des cabinets de brevets en dehors de la France d’effectuer certaines actions, telles que déposer des demandes de brevet et déposer des documents officiels signés pour les demandes de brevets. Les personnes qui ont travaillé sous la supervision de D, et celles qui travaillent sous la supervision de E, CD, CP et HC, étaient de la même manière responsables des formalités. D et E étaient habilitées par le Comité de Direction à signer certains types de lettres au nom de C et elles pouvaient déléguer leur signature à d’autres, sauf le personnel tel que les employés de bureau, comme par exemple HC. Ainsi, D occupait une fonction au sein de C dans laquelle elle parlait au nom de C dans certains domaines, et E occupe une fonction dans laquelle elle parle au nom de C dans certains domaines.

4. Au cours d’une enquête réalisée par C, qui d’après ce que l’on m’a indiqué est survenue à la suite d’une demande d’un cabinet de brevets américain quant à la chaîne de traitement de documents officiels en ce qui concerne certaines demandes du fait que certains inventeurs ont déclaré que des signatures sur certains documents officiels n’étaient pas leurs signatures, on m’a indiqué que certains dossiers de C ont été désignés comme les dossiers qui peuvent avoir contenu des documents officiels déposés auprès de l’Office des Brevets qui peuvent avoir eu une ou des signatures d’inventeurs apposées sur ceux-ci qui n’étaient pas la ou les signatures du ou des inventeurs. On m’a en outre indiqué : que HC et CD avaient également été interrogées par C ; que HC avait reconnu avoir imité des signatures d’inventeurs sur des documents ; et CD avait reconnu avoir donné pour instruction à HC d’imiter des signatures



BREVET
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N° DE DEPOT 09/586,535

d'inventeurs sur des documents, de même qu'elle avait imité des signatures d'inventeurs elle-même. Pendant que j'occupais les fonctions de Président, je n'ai pas donné pour instruction à HC ni à CD ni à quiconque au sein de C d'imiter des signatures d'inventeurs sur des documents. J'ai appris pour la première fois que HC et CD avaient imité des signatures d'inventeurs le 23 février 2004. Par conséquent, je n'étais pas au courant, pendant que j'occupais le poste de Président et avant d'avoir été informé par C que HC et CD avaient reconnu avoir imité des signatures d'inventeurs sur des documents, que HC et CD avaient imité des signatures d'inventeurs sur des documents. En outre, pendant que j'occupais le poste de Président, à ma connaissance, ni HC ni CD n'étaient autorisées par un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. De la même manière, pendant que j'occupais les fonctions de Président, à ma connaissance, ni HC ni CD n'étaient autorisées par quiconque au sein de C à apposer des signatures d'inventeurs sur des documents. Et, à ma connaissance, pendant que j'occupais les fonctions de Président, ni HC ni CD n'étaient autorisées par le (les) cessionnaire(s) à apposer des signatures d'inventeurs sur des documents.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,

3 juin 2004

(date)

A. Moncheny

Signature du déclarant en présence de :

3 June 04

(date)

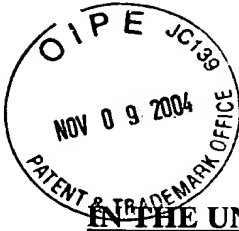
Nom en caractères d'imprimerie : Michel

Moncheny

Thomas J. Kowalski

Nom en caractères d'imprimerie : Thomas J.

Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Elisabeth de VANSSAY is the same as, and a true and correct translation of, the attached French language Declaration of said person.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

US1

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



A handwritten signature in black ink, appearing to be "P. Bonnefous".

P. BONNEFOUS

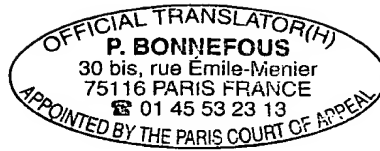
Signature of Declarant Witnessed by:

June 3, 2004

A handwritten signature in black ink, appearing to be "Thomas J. Kowalski".

Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

DECLARATION OF
ELISABETH de VANSAY IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Elisabeth de Vansay, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I am an employee of C since June 1999. From January 1, 2000 to the present, I have been Head of the Administrative Patent Department. Colette Drouvroy ("CD") was a supervisor whom I supervised until her retirement on December 31, 2000, and Hélène Carré ("HC") is a clerk whom CD supervised. On January 1, 2001 Catherine Pottier ("CP") replaced CD and became HC's superior. As Head of the Administrative Patent Department, on behalf of C, I am responsible for transmitting patent applications to ex-French patent law firms for filing with the applicable Patent Offices. CD and CP were responsible for formal documents after the filing of an ex-French patent application. Accordingly, on behalf of C, with C acting as an agent for a client, I instruct ex-French patent law firms to file patent applications. Formal papers forwarded after filing were accompanied by a letter that has a signature made by CP or CD



PATENT
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above my printed name. Thus, when I transmit to an ex-French patent law firm for filing a patent application or other formal papers, I am in a position at C in which I speak on behalf of C.

3. There was an investigation by C that arose from an inquiry from a US patent law firm as to the chain of custody of formal papers as to certain applications because this US lawfirm informed me that certain inventors had affirmatively reported that signatures on certain formal papers were not their signatures. The investigation included interviewing people and reviewing files. In this investigation, HC stated to Claude Jacobson ("Y") and me that she had copied inventor signatures on documents during the tenure of CD, on the instructions of CD, and that during the tenure of CP she did not and was not requested to copy inventor signatures. In this investigation CP stated to me that she had not copied inventor signatures on documents. I was further advised that CD admitted instructing HC to imitate inventor signatures on documents between 1998-2000, as well as that she imitated inventor signatures. I reviewed all of the files from a period of 1995 to the present for the client for each country the law of which required that the inventor himself sign documents. I did not review those files upon which CP worked, in view of the comments by CP and HC during their interviews that CP was not involved. The period of 1995 to the present is the whole period during which C filed patents for the client.

4. From my review of files, I believe that during my tenure as Head of the Administrative Patent Department, HC and CD copied inventor signatures on documents. But at the time they were copying inventor signatures, I had no knowledge that they were doing so, and did not have knowledge until investigating the inquiry from the US law firm. During my tenure as Head of the Administrative Patent Department, to my knowledge, neither HC nor CD was requested or authorized by any of the inventors to affix inventor signatures to documents. Likewise, during my tenure as Head of the Administrative Patent Department, neither HC nor CD was requested or authorized by me, or to my knowledge, by anyone at C to affix inventor signatures to documents. And, during my tenure as Head of the Administrative Patent Department, to my knowledge, neither HC nor CD was requested or authorized by the assignee(s) to affix inventor signatures to documents.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so



PATENT
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made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

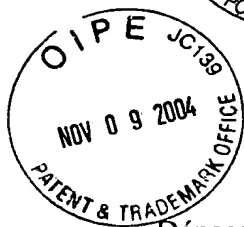
3 juin 2004
June 3, 2004
(date)

E. de Vanssay
Print Name: Elisabeth de Vanssay

Signature of Declarant Witnessed by:

3 June 04
(date)

Thomas J. Kowalski
Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : PCV VACCIN AND

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

ELISABETH DE VANSAY A L'APPUI DE

LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussignée, Elisabeth de Vansay, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. Je travaille chez C depuis juin 1999. Depuis le 1er janvier 2000 à ce jour, je suis Chef du Service administratif Brevets. Colette Drouvroy ("CD") était une adjointe sous ma supervision jusqu'à son départ à la retraite le 31 décembre 2000, et Hélène Carré ("HC") est une employée de bureau subordonnée de CD. Le 1er janvier 2001 Catherine Pottier ("CP") a remplacé CD et est devenue la supérieure hiérarchique de HC. En tant que Chef du Service Administratif Brevets, pour le compte de C, je suis en charge de la transmission des demandes de brevets aux cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

brevets concernés. CD et CP étaient responsables des documents officiels après le dépôt d'une demande de brevet en dehors de la France. Par conséquent, au nom de C, avec C agissant en tant que mandataire d'un client, je demande à des cabinets de brevets en dehors de la France de déposer des demandes de brevet. Les documents officiels expédiés après le dépôt étaient accompagnés d'une lettre qui revêtait la signature de CP ou CD au-dessus de mon nom en caractères d'imprimerie. Ainsi, quand je transmets à un cabinet de brevets en dehors de la France une demande de brevet ou d'autres documents officiels pour les déposer, j'occupe une fonction dans laquelle je parle au nom de C.

3. C a réalisé une enquête qui est survenue à la suite d'une demande d'un cabinet de brevets américain quant à la chaîne de traitement de documents officiels relatifs à certaines demandes, car ce cabinet de brevets m'a informée que certains inventeurs avaient déclaré que des signatures sur certains documents officiels n'étaient pas leurs signatures. L'enquête comprenait un entretien avec des personnes et une étude des dossiers. Lors de cette enquête, HC a déclaré à Claude Jacobson ("Y") et à moi-même qu'elle avait copié des signatures d'inventeurs sur des documents lorsque CD était en poste, sur les instructions de CD, et qu'en travaillant sous la supervision de CP elle n'avait pas et elle ne s'était pas vue demander de copier des signatures d'inventeurs. Lors de cette enquête, CP m'a déclaré qu'elle n'avait pas copié de signatures d'inventeurs sur des documents. On m'a en outre informé que CD avait reconnu avoir donné pour instruction à HC d'imiter des signatures d'inventeurs sur des documents entre 1998 et 2000, de même qu'elle avait elle-même imité des signatures d'inventeurs. J'ai étudié tous les dossiers courant sur une période de 1995 à ce jour pour le client, pour chaque pays dont la loi requiert que l'inventeur signe lui-même les documents. Je n'ai pas étudié les dossiers sur lesquels CP a travaillé, au vu des commentaires de CP et de HC pendant leurs entretiens indiquant que CP n'était pas impliquée. La période de 1995 à ce jour représente l'intégralité de la période pendant laquelle C a déposé des brevets pour le client.

4. A partir de mon étude des dossiers, je pense que pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, HC et CD ont copié des signatures d'inventeurs sur des documents. Mais à l'époque où elles copiaient des signatures d'inventeurs, je n'en avais pas connaissance, et je n'en ai pas eu connaissance jusqu'à l'enquête découlant de la demande du cabinet de brevets américain. Pendant que j'occupais la fonction de Chef du Service Administratif des Brevets, à ma connaissance, ni HC ni CD n'ont été invitées ou



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autorisées par l'un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. De la même manière, pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, ni HC ni CD n'ont été invitées ou autorisées par moi-même, ou à ma connaissance, par quiconque au sein de C à apposer des signatures d'inventeurs sur des documents. Et, pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, ni HC ni CD n'ont été invitées ni autorisées par le (les) cessionnaire(s) à apposer des signatures d'inventeurs sur des documents.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,

3 juin 2004
(date)

E. de Vanssay
Nom en caractères d'imprimerie : Elisabeth de
Vanssay

Signature de la déclarante en présence de :

3 June 04
(date)

Thomas J. Kowalski
Nom en caractères d'imprimerie : Thomas J.
Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Claude JACOBSON is the same as, and a true and correct translation of, the attached French language Declaration of said person.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



A handwritten signature in black ink, appearing to be "P. BONNEFOUS".

P. BONNEFOUS

Signature of Declarant Witnessed by:

June 3, 2004

A handwritten signature in black ink, appearing to be "Thomas J. Kowalski".

Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

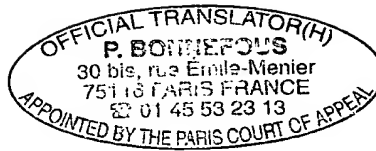
DECLARATION OF
CLAUDE JACOBSON IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Claude Jacobson, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices. I am a registered French patent and trademark agent ("CPI") and a European patent and trademark attorney. I am presently the President (Chief Executive Officer or CEO) of C, empowered to speak on its behalf; and have held this position since February 2002.

2. Under my direction, supervision and control, in the ordinary course of business, C promptly investigated an inquiry received February 17, 2004 from a US patent law firm as to the chain of custody of formal papers as to certain US applications because that US law firm informed C that certain inventors had affirmatively reported that signatures on certain formal papers were not their signatures. This investigation involved reviewing all of the files for the client for the period of 1995 to the present, which is the entire period during which C filed patents for the client. From this investigation,

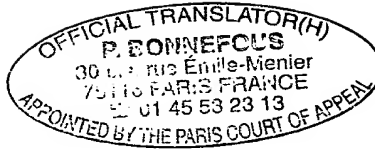


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- C learned that certain files contained what appeared to be original signed formal papers, received in our office after what appeared to be a copy of signed documents had been transmitted to the US patent law firm.
- C also learned that in certain files an initial or second execution of a formal paper was requested by the US patent law firm, and that in these and certain additional files the turnaround of the formal papers seemed unusually fast, given the number and/or location of the inventors.
- C further learned that in certain files the inventors were located in distant geographic regions, and it appeared that certain employees of C felt pressure to meet deadlines for formal papers.
- C additionally learned that in certain files the original inventor-executed formal papers that were received by C were mislaid, and formal papers that had inventor signatures affixed to them by employees of C, without the authorization of C, without the authorization of the assignee(s) and without the authorization of the inventor(s), were sent to the US patent firm.
- C yet further learned that in one Indonesian case, there may be a doubt as to whether the formal papers were actually signed by the inventors.
- C even further learned that in one Taiwanese case, there had been a mistake on the document signed previously by the individuals, and it appears that papers that had inventor signatures affixed to them by employees of C, without the authorization of C, without the authorization of the assignee(s) and without the authorization of the inventor(s), were sent to the foreign associate.

These files were identified by C as the files that may have had formal papers filed at the applicable Patent Office that may have had inventor signature(s) affixed to them that were not the signature(s) of the inventor(s).

3. Under my direction, supervision and control, in the ordinary course of business, as part of the investigation, Colette Drouvroy ("CD"), who was employed as the foreign patent section supervisor of C, and Helene Carré ("HC"), who is employed as a clerk in the same section of C under CD, were questioned, Denise Yannic ("D"), who was CD's superior, Head of the Administrative Patent Department, and at the time a member of the Board of C, until her



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retirement on December 31, 1999, was questioned, as were Elisabeth de Vanssay ("E"), who is currently Head of the Administrative Patent Department and Catherine Pottier ("CP"), who is currently the foreign patent section supervisor of C. Also interviewed was Michel Moncheny ("X"), who was the President (Chief Executive Officer or CEO) of C, prior to me. HC admitted to imitating inventor signatures on documents on express instructions of her supervisor CD, starting from 1998 until CD's retirement on December 31, 2000. HC assured me that she never did or was requested to do that after December 31, 2000. CD admitted instructing HC to imitate inventor signatures on documents, as well as herself imitating inventor signatures. Neither HC nor CD was authorized by any of the inventors to affix inventor signatures to documents. Neither HC nor CD was authorized by anyone at C to affix inventor signatures to documents. Neither HC nor CD was authorized by the assignee(s) to affix inventor signatures to documents.

4. Therefore, I respectfully submit that C diligently undertook a good faith investigation to identify the files in which inventor signatures were affixed to documents by employees of C without the authorization of C, without the authorization of inventor(s) and without the authorization of assignee(s), and that C acted without deceptive intent.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

3 juin 2004
(date)

Print Name: Claude Jacobson

Signature of Declarant Witnessed by:

3 June 04
(date)

Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : **PCV VACCIN AND**

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

CLAUDE JACOBSON A L'APPUI DE

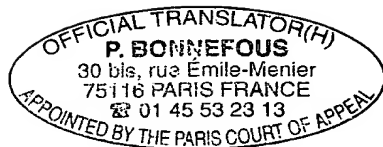
LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussigné, Claude Jacobson, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs. Je suis un conseil en propriété industrielle français (ci-après désigné 'CPI') et un conseil en propriété industrielle européen agréé. Je suis actuellement le Président de C, habilité à parler en son nom, et j'occupe cette fonction depuis février 2002.

2. Sous ma direction, ma supervision et mon contrôle, dans le cours ordinaire des affaires, C a immédiatement répondu à une requête reçue le 17 février 2004 d'un cabinet de brevets américain quant à la chaîne de traitement de documents officiels relatifs à certaines demandes américaines, car ce cabinet américain a informé C que certains inventeurs avaient déclaré que les signatures sur certains documents officiels n'étaient pas leur signature. Cette enquête a impliqué l'étude de tous les dossiers pour le client pendant la période allant de 1995 à



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nos jours, qui représente l'intégralité de la période pendant laquelle C a déposé des brevets pour le client. A partir de cette enquête,

- C a appris que certains dossiers contenaient ce qui semblait être des documents officiels revêtus de signatures originales, reçus dans nos bureaux après que ce qui semblait être une copie de documents signés avait été envoyée au cabinet américain.
- C a également appris que dans certains dossiers une signature initiale ou une seconde signature d'un document officiel était requise par le cabinet américain, et que dans ces dossiers et dans certains dossiers supplémentaires la rotation des documents officiels avait semblé exceptionnellement rapide, étant donné le nombre et/ou l'adresse des inventeurs.
- C a en outre appris que dans certains dossiers les inventeurs se situaient dans des régions géographiques différentes, et il est apparu que certains employés de C ont ressenti une pression quant au respect des délais des documents officiels.
- C a de plus appris que dans certains dossiers les documents officiels revêtus de la signature originale de l'inventeur qui étaient reçus par C avaient été mal classés, et que des documents officiels revêtus de signatures d'inventeurs apposées par des employés de C, sans l'autorisation de C, sans l'autorisation du (des) cessionnaire(s) et sans l'autorisation du (des) inventeur(s), avaient été envoyés au cabinet de brevets américain.
- C a encore appris que dans un dossier indonésien, il pouvait y avoir un doute quant à savoir si les documents officiels étaient réellement signés par les inventeurs.
- C a encore appris que dans un dossier taiwanais, il y avait eu une erreur sur le document précédemment signé par les personnes, et il semble que des documents revêtus de signatures d'inventeurs apposées par des employés de C, sans l'autorisation de C, sans l'autorisation du (des) cessionnaire (s) et sans l'autorisation du (des) inventeur(s), aient été envoyés au correspondant étranger.

Ces dossiers ont été identifiés par C comme étant les dossiers qui peuvent avoir eu des documents officiels déposés auprès de l'Office des Brevets concerné qui peuvent avoir été revêtus d'une ou de signatures d'inventeurs qui n'étaient pas la (les) signature(s) du (des) inventeur(s).

3. Sous ma direction, ma supervision et mon contrôle, dans le cours ordinaire des affaires, dans le cadre de l'enquête, Colette Drouvroy ("CD"), qui était employée en tant



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qu'adjoindre au service des brevets étrangers de C, et Hélène Carré ("HC"), qui était employée de bureau dans le même service de C sous la supervision de CD, ont été interrogées, Denise Yannic ("D"), qui était la responsable hiérarchique de CD, Chef du Service Administratif Brevets et à cette époque membre du Comité de Direction de C, jusqu'à son départ à la retraite le 31 décembre 1999, a été interrogée, tout comme Elisabeth de Vanssay ("E"), qui occupe actuellement le poste de Chef du Service Administratif Brevets, et Catherine Pottier ("CP"), qui est actuellement l'adjoindre au service des brevets étrangers de C. Michel Moncheny (« X ») a également été interrogé en tant que Président de C avant moi. HC a reconnu avoir imité des signatures d'inventeurs sur des documents sur les instructions expresses de sa supérieure hiérarchique CD, de 1998 jusqu'au départ à la retraite de CD le 31 décembre 2000. HC m'a assuré qu'elle n'avait jamais agi et n'avait jamais été invitée à agir ainsi après le 31 décembre 2000. CD a reconnu avoir donné pour instruction à HC d'imiter des signatures d'inventeurs sur des documents et avoir elle-même imité des signatures d'inventeurs sur des documents elle-même. Ni HC ni CD n'étaient autorisées par un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. Ni HC ni CD n'étaient autorisées par quiconque chez C à apposer des signatures d'inventeurs sur des documents. Ni HC ni CD n'étaient autorisées par le (les) cessionnaire(s) à apposer des signatures d'inventeurs sur des documents.

4. C'est pourquoi je déclare respectueusement que C a entrepris diligemment une enquête de bonne foi afin d'identifier les dossiers dans lesquels des signatures d'inventeurs avaient été apposées sur des documents par des employés de C, sans l'autorisation de C, sans l'autorisation du (des) inventeur(s) et sans l'autorisation du (des) cessionnaire(s), et que C a agi sans intention de nuire.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

3 juin 2004
(date)

Nom en caractères d'imprimerie : Claude Jacobson

Signature du déclarant en présence de :

3 June 04
(date)

Nom en caractères d'imprimerie : Thomas J.

Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice Bonnefous, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Catherine Pottier is the same as, and a true and correct translation of, the attached French language Declaration of said person.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

3 June 04
(date)

Respectfully submitted,

Print Name: Patrice Bonnefous



Signature of Declarant Witnessed by:

June 3, 2004

Print Name: Thomas J. Kowalski, Reg. No. 32,147

PATENT
574313-2335.1
USSN 09/586,535



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

DECLARATION OF
CATHERINE POTTIER IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Catherine Pottier, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I am an employee of C since October 1, 2000, and from January 1, 2001 to the present, have been a supervisor under Elisabeth de Vanssay ("E"), Head of the Administrative Patent Department. Helene Carre ("HC") is a clerk whom I supervise.

3. In the course of an investigation by C, that I am advised arose from an inquiry from a US patent law firm as to the chain of custody of formal papers as to certain applications because certain inventors affirmatively reported that signatures on certain formal papers were not their signatures, I was advised that certain files of C were designated as the files that may have had formal papers filed at the Patent Office that may have had inventor signature(s) affixed to them that were not the signature(s) of the inventor(s). I was further advised: that HC and Colette Drouvroy ("CD"), my predecessor, were also questioned by C; that HC admitted to imitating



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574313-2335.1
USSN 09/586,535

inventor signatures on documents; and CD admitted instructing HC to imitate inventor signatures on documents, as well as admitted that she also imitated inventor signatures.

4. During my tenure as a supervisor, I have not imitated inventor signatures; HC has not been instructed by me to imitate inventor signatures to documents; and, to the best of my knowledge, HC has not done so during my tenure as supervisor. During my tenure at C and prior to being advised of the admissions by HC and CD, I had no knowledge that HC and CD previously imitated inventor signatures on documents. And, during my tenure as a supervisor, after learning of the admissions by HC and CD, HC has been instructed to not imitate inventor signatures. Furthermore, with respect to the aforementioned investigation, I too was questioned by C. Then I confirmed, and I hereby also confirm that I have not copied inventor signatures on documents, and did not and have not instructed HC to copy inventor signatures on documents. Accordingly to the best of my knowledge and belief, since I assumed the position of supervisor under E, formerly held by CD, there has been no imitating of signatures at C by HC, and there certainly has been no imitating of signatures by me at C since I began my employment at C. Thus, from January 1, 2001 to the present, to the best of my knowledge and belief, there has been no imitating of signatures at C.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.


Respectfully submitted,

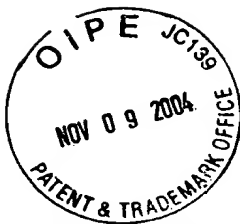
03.06.04
(date)


Print Name: Catherine Pottier

Signature of Declarant Witnessed by:

3 June 04
(date)


Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : PCV VACCIN AND

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE
CATHERINE POTTIER A L'APPUI DE
LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

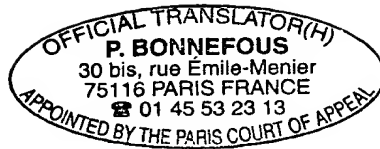
Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussignée, Catherine Pottier, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. Je travaille chez C depuis le 1er octobre 2000, et depuis le 1er janvier 2001 à ce jour, je suis l'adjointe de Elisabeth de Vanssay ("E"), Chef du Service Administratif Brevets. Hélène Carré ("HC") est une employée de bureau que j'encadre.

3. Au cours d'une enquête réalisée par C, qui d'après ce que l'on m'a indiqué est survenue à la suite d'une demande d'un cabinet de brevets américain quant à la chaîne de traitement de documents officiels en ce qui concerne certaines demandes du fait que certains inventeurs ont déclaré que des signatures sur certains documents officiels n'étaient pas leurs signatures, on m'a indiqué que certains dossiers de C ont été désignés comme les dossiers qui peuvent avoir contenu des documents officiels déposés auprès de l'Office des Brevets qui peuvent avoir eu une ou des signatures d'inventeurs apposées sur ceux-ci qui n'étaient pas la ou



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les signatures du ou des inventeurs. On m'a en outre indiqué : que HC et Colette Drouvroy ("CD"), mon prédécesseur, avaient également été interrogées par C ; que HC avait reconnu avoir imité des signatures d'inventeurs sur des documents ; et que CD avait reconnu avoir donné pour instruction à HC d'imiter des signatures d'inventeurs sur des documents, de même qu'elle avait imité des signatures d'inventeurs.

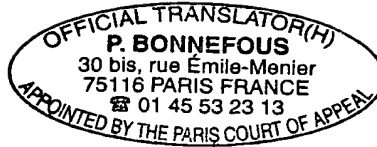
4. Dans l'exécution de mes fonctions d'adjointe, je n'ai pas imité de signatures d'inventeurs ; je n'ai pas ordonné à HC d'imiter des signatures d'inventeurs sur des documents ; et, à ma connaissance, HC n'a pas agi ainsi pendant mon exécution des fonctions d'adjointe. Dans l'exécution de mes fonctions chez C et avant d'être informée des révélations de HC et CD, je n'avais pas connaissance que HC et CD avaient précédemment imité des signatures d'inventeurs sur des documents. Et dans l'exécution de mes fonctions d'adjointe, après avoir appris les révélations de HC et CD, il a été donné pour instruction à HC de ne pas imiter de signatures d'inventeurs. En outre, par rapport à l'enquête susmentionnée, j'ai également été interrogée par C. Puis j'ai confirmé et je confirme par les présentes que je n'ai pas copié de signatures d'inventeurs sur des documents, et que je n'ai pas donné et je ne donne pas pour instruction à HC de copier des signatures d'inventeurs sur des documents. Par conséquent, à ma connaissance, depuis que j'occupe la fonction d'adjointe de E, anciennement occupée par CD, il n'y a pas eu d'imitation de signatures chez C par HC et je suis certaine de ne pas avoir imité de signatures chez C depuis que je suis entrée en fonction au sein de C. Ainsi, du 1^{er} janvier 2001 à ce jour, à ma connaissance, il n'y a pas eu d'imitation de signatures chez C.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables et, qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,

(date)

Nom en caractères d'imprimerie : Catherine Pottier



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

Signature de la déclarante en présence de :

3 June 04
(date)

Thomas J. Kowalski

Nom en caractères d'imprimerie : Thomas J.

Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Denise YANNIC is the same as, and a true and correct translation of, the attached French language Declaration of said person.
2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



A handwritten signature in black ink, consisting of a stylized 'P' followed by a horizontal line and a vertical stroke.

P. BONNEFOUS

Signature of Declarant Witnessed by:

June 3, 2004

A handwritten signature in black ink, reading "Thomas J. Kowalski" in a cursive script.

Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
DENISE YANNIC IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Denise Yannic, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I was an employee of C from April 1, 1963 to December 31, 1999 ; from 1963 to about 1969 I was Head of the Foreign Patents Department and from about 1969 or 1970 until December 31, 1999, I was Head of the Administrative Patent Department, and with reference to the period of 1998 through December 31, 1999 was a member of the Board (Comité de Direction) of C. During that time, Colette Drouvroy ("CD") was a supervisor whom I supervised, and Hélène Carré ("HC") was a clerk whom CD supervised. As Head of the Administrative Patent Department, and a member of the Board of C, I was permitted to run the Patent Department relatively autonomously within C. As Head of the Administrative Patent Department, on behalf of C, I delegated responsibility to CD for routine work such as transmitting formal papers to be executed, receiving executed formal papers, and transmitting executed formal papers to ex-French patent law firms for filing with Patent Offices outside of

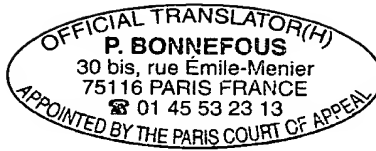


PATENT
574313-2335.1
USSN 09/586,535

France and the European Patent Office. Accordingly, on behalf of C, with C acting as an agent for a client, I instructed ex-French patent law firms to do certain acts, such as file patent applications. Thus, I was in a position at C in which I spoke on behalf of C in certain matters. I have a recollection of that C implemented a new computer system for in particular the control of “missing documents” and we had to insist that and to force CD to adopt it as she previously managed documents manually.

3. In the course of an investigation by C, that I am advised arose from an inquiry from a US patent law firm as to the chain of custody of formal papers as to certain applications because certain inventors affirmatively reported that signatures on certain formal papers were not their signatures, I was advised that certain files of C were designated as the files that may have had formal papers filed at the Patent Office that may have had inventor signature(s) affixed to them that were not the signature(s) of the inventor(s). I was further advised: that HC and CD were also questioned by C; that HC admitted to imitating inventor signatures on documents; and CD admitted instructing HC to imitate inventor signatures on documents, as well as that she imitated inventor signatures.

4. During my tenure as Head of the Administrative Patent Department, I did not imitate inventor signatures on documents, and did not instruct HC or CD to imitate inventor signatures on documents. During my tenure as Head of the Administrative Patent Department, I was not aware that HC and CD had imitated inventor signatures on documents. In fact, I first learned that HC and CD had imitated inventor signatures on documents when I was recently advised thereof by C (in about March or April 2004) that HC and CD admitted imitating inventor signatures on documents, that HC and CD had imitated inventor signatures on documents. Further, during my tenure as Head of the Administrative Patent Department, neither HC nor CD was authorized by any of the inventors to affix inventor signatures to documents. Likewise, during my tenure as Head of the Administrative Patent Department, neither HC nor CD was authorized by me or to my knowledge by anyone at C to affix inventor signatures to documents. And, during my tenure as Head of the Administrative Patent Department, neither HC nor CD was authorized by the assignee(s) to affix inventor signatures to documents.



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574313-2335.1
USSN 09/586,535

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

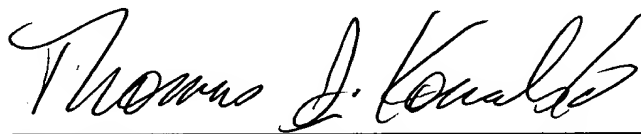
Respectfully submitted,

3 June 2004
(date)


Print Name: Denise Yannic

Signature of Declarant Witnessed by:

3 June 04
(date)


Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : **PCV VACCIN AND**

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

DENISE YANNIC A L'APPUI DE

LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussignée, Denise Yannic, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. J'ai été salariée de C du 1er avril 1963 au 31 décembre 1999 ; de 1963 à environ 1969 j'étais Chef du Service Brevets étrangers et d'environ 1969 ou 1970 jusqu'au 31 décembre 1999, j'étais Chef du Service Administratif Brevets, et en faisant référence à la période de 1998 au 31 décembre 1999, j'étais membre du Comité de Direction de C. Pendant cette période, Colette Drouvroy ("CD") était adjointe sous ma supervision et Hélène Carré ("HC") était une employée de bureau, subordonnée de CD. En tant que Chef du Service Administratif Brevets et membre du Comité de direction de C, j'étais autorisée à gérer le service des Brevets d'une manière relativement autonome chez C. En tant que Chef du Service Administratif Brevets, pour



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N° DE DEPOT 09/586,535

le compte de C, je déléguais les responsabilités à CD pour le travail quotidien tel que la transmission de documents officiels devant être signés, la réception de documents officiels signés et la transmission de documents officiels signés à des cabinets de brevets en dehors de la France et à l'Office Européen des Brevets. Par conséquent, pour le compte de C, avec C agissant en tant que mandataire d'un client, j'ai demandé à des cabinets de brevets en dehors de la France d'effectuer certaines actions, telles que déposer des demandes de brevet. J'occupais ainsi un poste chez C où je parlais au nom de C dans certains domaines. Je me rappelle que C a mis en place un nouveau système informatique en particulier pour le contrôle des 'pièces manquantes' et que nous avons dû insister et forcer CD à l'adopter car elle gérait précédemment les documents de manière manuelle.

3. Au cours d'une enquête réalisée par C, qui d'après ce que l'on m'a indiqué est survenue à la suite d'une demande d'un cabinet de brevets américain quant à la chaîne de traitement de documents officiels en ce qui concerne certaines demandes du fait que certains inventeurs ont déclaré que des signatures sur certains documents officiels n'étaient pas leurs signatures, on m'a indiqué que certains dossiers de C ont été désignés comme les dossiers qui peuvent avoir contenu des documents officiels déposés auprès de l'Office des Brevets qui peuvent avoir eu une ou des signatures d'inventeurs apposées sur ceux-ci qui n'étaient pas la ou les signatures du ou des inventeurs. On m'a en outre indiqué : que HC et CD avaient également été interrogées par C ; que HC avait reconnu avoir imité des signatures d'inventeurs sur des documents ; et que CD avait reconnu avoir donné pour instruction à HC d'imiter des signatures d'inventeurs sur des documents, de même qu'elle avait imité des signatures d'inventeurs.

4. Pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, je n'ai pas imité de signatures d'inventeurs sur des documents et je n'ai pas donné pour instruction à HC ni à CD d'imiter des signatures d'inventeurs sur des documents. Pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, je n'étais pas au courant que HC et CD avaient imité des signatures d'inventeurs sur des documents. En fait, j'ai appris pour la première fois que HC et CD avaient imité des signatures d'inventeurs sur des documents quand C m'a récemment indiqué (aux environs de mars ou avril 2004) que HC et CD avaient reconnu avoir imité des signatures d'inventeurs sur des documents. En outre, pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, ni HC ni CD n'étaient autorisées par un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. De la même



BREVET
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N° DE DEPOT 09/586,535

manière, pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, ni HC ni CD n'étaient autorisées par moi-même ou à ma connaissance par quiconque au sein de C à apposer des signatures d'inventeurs sur des documents. Et, pendant que j'occupais les fonctions de Chef du Service Administratif Brevets, ni HC ni CD n'étaient autorisées par le (les) cessionnaire(s) à apposer des signatures d'inventeurs sur des documents.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,

3 June 2004
(date)

Denise Yannic
Nom en caractères d'imprimerie: Denise Yannic

Signature de la déclarante en présence de :

3 June 04
(date)

Thomas J. Kowalski
Nom en caractères d'imprimerie : Thomas J.
Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Helen CARRE is the same as, and a true and correct translation of, the attached French language Declaration of said person.
2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



A handwritten signature in black ink, appearing to be "P. Bonnefous".

P. BONNEFOUS

Signature of Declarant Witnessed by:

June 3, 2004

A handwritten signature in black ink, appearing to be "Thomas J. Kowalski".

Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

**DECLARATION OF
HELEN CARRE IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Hélène Carré, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I am employed by C as a clerk, and have held that position since 1987. Colette Drouvroy ("CD") was my supervisor, until December 31, 2000. Denise Yannic ("D") was CD's superior, Head of the Administrative Patent Department, and at the time a member of the Board of C until December 31, 1999.



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3. Between 1997 and 2000 CD instructed me to affix inventor signatures to certain formal documents, namely Declaration and Power of Attorney and Assignment documents, and I did as instructed. I also witnessed CD affixing inventor signatures to formal documents. Neither CD nor I was authorized (or anyone else from C) by any of the inventors to affix inventor signatures to documents. I was not authorized or requested by D (or anyone else from C) to affix inventor signatures to documents. Neither CD nor I was authorized by the assignee(s) to affix inventor signatures to documents. With respect to the above-captioned patent application ("the present application"), I am advised that formal documents filed at the Patent Office may have had signature(s) affixed to them that were not the signature(s) of inventor(s).

4. I affixed inventor signatures to documents in certain cases because I was instructed to do so. Generally, there were two instances when formal documents had inventor signatures affixed to them: When the individuals were located in distant geographic regions; and, when there had been a mistake on the document signed previously by the individuals. I had not been instructed that original inventor signatures were indeed required for the US and certain countries, and in some countries C is authorized to sign documents on behalf of the Applicant. When I affixed inventor signatures to documents, I did not intend to deceive anyone. Therefore, I respectfully submit that I acted without deceptive intent.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

3.06.04.

(date)

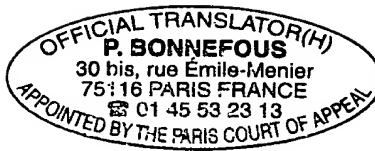
Signature of Declarant Witnessed by:

(date)

3 June 04

Print Name: Hélène Carré

Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : **PCV VACCIN AND**

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

HELENE CARRE A L'APPUI DE

LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussignée, Hélène Carré, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des Cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. Je travaille chez C en tant qu'employée de bureau et j'occupe ce poste depuis 1987. Colette Drouvroy ("CD") était ma supérieure hiérarchique jusqu'au 31 décembre 2000. Denise Yannic ("D") était la supérieure hiérarchique de CD, elle était Chef du Service Administratif Brevets et à cette époque membre du Comité de Direction de C, jusqu'au 31 décembre 1999.

H.C. 3. Entre 1997⁸ et 2000 CD m'a donné pour instruction d'apposer des signatures d'inventeurs sur certains documents officiels, c'est-à-dire des Déclarations, des Pouvoirs et des documents de Cession, et j'ai exécuté ces instructions. J'ai également vu CD apposer des signatures d'inventeurs sur des documents officiels. Ni CD ni moi-même (ou quiconque au sein



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

de C) n'étions autorisées par un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. Je n'étais pas autorisée ni invitée par D (ou par quiconque au sein de C) à apposer des signatures d'inventeurs sur des documents. Ni CD ni moi-même n'étions autorisées par le (les) cessionnaire(s) à apposer des signatures d'inventeurs sur des documents. En ce qui concerne la demande de brevet susmentionnée (ci-après désignée la 'présente demande'), j'ai été informée que des documents officiels déposés auprès de l'Office des Brevets pouvaient avoir eu une ou des signatures apposées qui n'étaient pas la ou les signature(s) du ou des inventeur(s).

4. J'ai apposé des signatures d'inventeurs sur des documents dans certains cas car on m'a donné pour instruction de le faire. Il y a eu généralement deux situations dans lesquelles des signatures d'inventeurs ont été apposées sur des documents officiels : lorsque les personnes se trouvaient dans des régions géographiques éloignées, et lorsque le document préalablement signé par les personnes comportait une erreur. On ne m'a pas expliqué que les signatures originales des inventeurs étaient en fait requises pour les Etats-Unis et certains pays, et dans certains pays, C est habilité à signer des documents pour le compte du déposant. Lorsque j'ai apposé des signatures d'inventeurs sur des documents, je n'avais pas l'intention de nuire à quiconque. C'est pourquoi je déclare respectueusement que j'ai agi sans intention de nuire.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme étant véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,

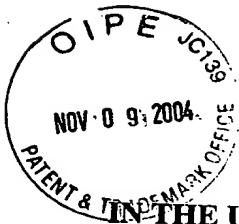
3.06.04.
(date)

Signature de la déclarante en présence de :
3 June 04
(date)

Nom en caractères d'imprimerie : Hélène Carré

Nom en caractères d'imprimerie : Thomas J.

Kowalski, Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : DNA VACCINE-PCV

745 Fifth Avenue, New York NY 10151

**DECLARATION OF
TRANSLATOR IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Patrice BONNEFOUS, declare and state that:

1. I am fluent in English and French. I hereby certify that the attached English language Declaration of Colette DROUVROY is the same as, and a true and correct translation of, the attached French language Declaration of said person.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,

June 3, 2004



P. BONNEFOUS

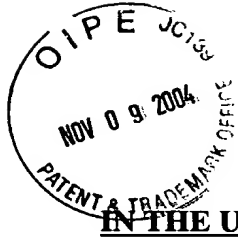
Signature of Declarant Witnessed by:

June 3, 2004



Thomas J. Kowalski,

Reg. No. 32,147



PATENT
574313-2335.1
USSN 09/586,535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Christophe AUDONNET et al.
Filed : May 31, 2000
Serial No. : 09/586,535
Group Art Unit : 1632
Examiner : Q. J. Li
For : **DNA VACCINE-PCV**

745 Fifth Avenue, New York, NY 10151

DECLARATION OF
COLETTE DROUVROY IN SUPPORT OF
PETITION TO REVIVE AND WAIVE RULES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

I, Colette Drouvroy, declare and state that:

1. Cabinet Lavoix is a French industrial property counsel firm (Conseils en Propriété Industrielle) ("C") that was responsible for transmitting formal papers such as the Declaration and Power of Attorney, and Assignment, to inventors, obtaining signatures thereon, and forwarding the executed formal papers to patent law firms outside of France for filing with the respective Patent Offices.

2. I was an employee of C from 1957 to December 31, 2000, and during the period of about 1990 to 2000, I was deputy to the Head of the Administrative Patent Department in C. During that time, Hélène Carré ("HC") was a clerk whom I supervised. Denise Yannic ("D") was my superior, Head of the Administrative Patent Department, and at the time a member of the Board of C, until December 31, 1999. As deputy to the Administrative Patent Department, I prepared applications and among other things prepared forms for signature; HC was responsible for transmitting the documents under my supervision. D signed correspondence forwarding the application for filing (the Order Letter). I signed over D's name correspondence forwarding formal papers after the application had been filed (Missing Parts).

3. Between 1998 and 2000 I instructed HC to affix inventor signatures to certain formal documents, namely Declaration and Power of Attorney and Assignment documents, and



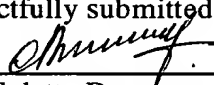
PATENT
574313-2335.1
USSN 09/586,535

she did as instructed. I also myself affixed inventor signatures to formal documents. I recall the starting date of 1998 for imitating signatures because it is when C instituted a new computer system with respect to Missing Parts (forwarding formal papers after the filing of the application). Neither HC nor I was authorized or requested by any of the inventors to affix inventor signatures to documents. I was not authorized or requested by D or anyone else at C to affix inventor signatures to documents. Neither HC nor I was authorized or requested by the assignee(s) to affix inventor signatures to documents. With respect to the above-captioned patent application ("the present application"), I am advised that formal documents filed at the Patent Office may have had signature(s) affixed to them that were not the signature(s) of inventor(s).

4. HC affixed inventor signatures to documents in certain cases because she was instructed by me to do so. I instructed her to do so because I was anxious to meet deadlines. Generally, there were two instances when formal documents had inventor signatures affixed to them: when the individuals were located in distant geographic regions; and, when there had been a mistake on the document signed previously by the individuals. I did not appreciate the gravity of imitating inventor signatures and regret having done so and having instructed HC to do so.

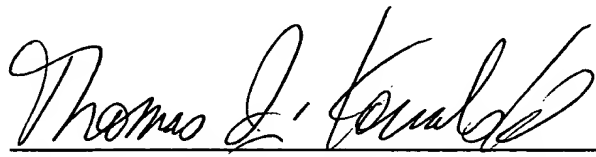
5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 USC 1001), and that such willful false statements may jeopardize the validity of this application, any patent issuing thereon, or any patent to which this verified statement is directed.

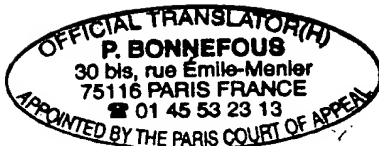
3 June 2004
(date)

Respectfully submitted,

Print Name: Colette Drouvroy

Signature of Declarant Witnessed by:

3 June 04
(date)


Print Name: Thomas J. Kowalski, Reg. No. 32,147



BREVET
574313-2335.1
N° DE DEPOT 09/586,535

**AUPRES DE L'OFFICE AMERICAIN DES BREVETS ET MARQUES DE
COMMERCE**

Déposant(s) : Jean-Christophe AUDONNET et al.
Date de dépôt : 31 mai 2000
N° de dépôt : 09/586,535
Group Art Unit : 1632
Examineur : Q. J. Li
Pour : PCV VACCIN AND

745 Fifth Avenue, New York, NY 10151

ATTESTATION DE

COLETTE DROUVROY A L'APPUI DE

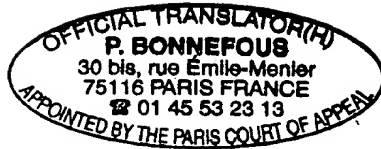
LA REQUETE EN RESTAURATION ET EN RENONCIATION A DES DECISIONS

Au Commissaire aux brevets
P.O. Box 1450
Alexandria, VA 22313-1450
Monsieur :

Je soussignée, Colette Drouvroy, déclare et affirme que :

1. Le Cabinet Lavoix est un cabinet français de Conseils en Propriété Industrielle ("C") qui avait la responsabilité de transmettre aux inventeurs des documents officiels tels que des Déclarations, des Pouvoirs et des documents de Cession, d'obtenir des signatures sur lesdits documents, et d'envoyer les documents officiels signés à des cabinets de brevets en dehors de la France pour leur dépôt auprès des Offices de brevets respectifs.

2. J'ai été salariée de C de 1957 jusqu'au 31 décembre 2000, et de 1990 à 2000, environ, j'étais l'adjointe du Chef du Service Administratif Brevets de C. Pendant cette période, Hélène Carré ("HC") était une employée de bureau que j'encadrais. Denise Yannic ("D") était ma supérieure hiérarchique, Chef du Service Administratif Brevets et à l'époque membre du Conseil de Direction de C, jusqu'au 31 décembre 1999. En tant qu'adjointe du Chef du Service Administratif Brevets, je préparais les demandes et entre autres je préparais les formules pour signature ; HC était en charge de la transmission des documents sous ma supervision. D signait la correspondance d'envoi de la demande pour dépôt (ci-après désignée la 'Lettre d'ordre'). Je signalais pour ordre de D la correspondance d'envoi de documents officiels après que la demande avait été déposée (ci-après désignées les 'Pièces manquantes').



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3. Entre 1998 et 2000 j'ai donné pour instruction à HC d'apposer des signatures d'inventeurs sur certains documents officiels, c'est-à-dire des Déclarations, des Pouvoirs et des documents de Cession, et elle a exécuté ces instructions. J'ai également apposé moi-même des signatures d'inventeurs sur des documents officiels. Je me souviens de l'année 1998 comme date de commencement de l'imitation de signatures car cela correspond à la période où C a instauré un nouveau système informatique ayant trait aux Pièces manquantes (l'envoi de documents officiels après le dépôt de la demande). Ni HC ni moi-même n'avions été autorisées ou invitées par l'un quelconque des inventeurs à apposer des signatures d'inventeurs sur des documents. Je n'ai pas été autorisée ni invitée par D ou par quiconque d'autre de C à apposer des signatures d'inventeurs sur des documents. Ni HC ni moi-même n'avions été autorisées ni invitées par le(s) cessionnaire(s) à apposer des signatures sur des documents. En ce qui concerne la demande de brevet susmentionnée (ci-après désignée la 'présente demande'), j'ai été informée qu'une ou des signature(s) apposée(s) sur des documents officiels déposés à l'Office des Brevets pouvait (pouvaient) ne pas être la ou les signature(s) du ou des inventeur(s).

4. HC a apposé des signatures d'inventeurs sur des documents dans certains cas car je lui ai donné pour instruction de le faire. Je lui ai donné pour instruction de le faire car j'avais peur de ne pas respecter les délais. Il y a eu généralement deux situations dans lesquelles des signatures d'inventeurs ont été apposées sur des documents officiels : lorsque les personnes se trouvaient dans des régions géographiques éloignées, et lorsque le document préalablement signé par les personnes comportait une erreur. Je n'ai pas mesuré la gravité de l'imitation de signatures d'inventeurs et je regrette d'avoir agi ainsi et d'avoir donné pour instruction à HC d'agir ainsi.

5. J'atteste par les présentes que toutes les déclarations effectuées ici selon ma propre connaissance sont véritables et que toutes les déclarations reposant sur des informations et des convictions sont considérées comme véritables, et qu'en outre, ces déclarations ont été effectuées en sachant que les fausses déclarations délibérées et actes équivalents sont punis par des amendes ou des peines d'emprisonnement ou les deux (18 USC 1001), et que de telles fausses déclarations délibérées peuvent entacher la validité de la présente demande, de tout brevet en résultant ou de tout brevet auquel la présente attestation certifiée conforme se rattache.

Le tout respectueusement soumis,



BREVET

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3 Juin 2004
(date)

Colette Drouvroy
Nom en caractères d'imprimerie : Colette Drouvroy

Signature de la Déclarante en présence de :

3 June 04
(date)

Thomas J. Kowalski

Nom en caractères d'imprimerie : Thomas J.

Kowalski, Reg. No. 32,147